

Nicholas Fortuna, Esq. (NF-9191)  
ALLYN & FORTUNA, LLP  
200 Madison Avenue, 5<sup>th</sup> Floor  
New York, New York 10016  
Telephone : (212) 213-8844  
Facsimile: (212) 213-3318  
*nfortuna@allynfortuna.com*

Mark L. Callister, Esq. (Admitted Pro Hac Vice)  
CALLISTER NEBEKER & McCULLOUGH  
Zions Bank Building, Suite 900  
10 East South Temple  
Salt Lake City, Utah 84133  
Telephone: (801) 530-7300  
Facsimile: (801) 364-9127  
*mcallister@cnmlaw.com*  
***Attorneys for Defendant D&B Towers, LLC***

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

C. ROBERT ALLEN, III, by LUKE ALLEN, as Guardian for  
the Property Management of C. Robert Allen, III,

Plaintiff,

- against -

CHRISTOPHER DEVINE, LAKESHORE MEDIA, LLC,  
MILLCREEK BROADCASTING LLC, COLLEGE CREEK  
MEDIA LLC, MARATHON MEDIA GROUP, LLC, 3 POINT  
MEDIA – SALT LAKE CITY, LLC, 3 POINT MEDIA  
DELTA, LLC, 3 POINT MEDIA – UTAH, LLC, 3 POINT  
MEDIA – FRANKLIN, LLC, 3 POINT MEDIA – PRESCOTT  
VALLEY, LLC, 3 POINT MEDIA – COALVILLE, LLC, 3  
POINT MEDIA – ARIZONA, LLC, 3 POINT MEDIA –  
FLORIDA, LLC, 3 POINT MEDIA – KANSAS, LLC, 3  
POINT MEDIA – OGDEN, LLC, 3 POINT MEDIA – SAN  
FRANCISCO, LLC, MIDVALLEY RADIO PARTNERS,  
LLC, D&B TOWERS, LLC, SUPERIOR BROADCASTING  
OF NEVADA, LLC, SUPERIOR BROADCASTING OF  
DENVER, LLC, WACKENBURG ASSOCIATES, LLC,  
PORTLAND BROADCASTING LLC, DESERT SKY MEDIA  
LLC, SKY MEDIA LLC, SKY MEDIA LLC, DEVINE  
RACING MANAGEMENT, LLC, ACB CONSULTING CO.,  
RICHARD DAVIS, EXCELSIOR CAPITAL, LLC,  
SUPERIOR BROADCASTING CO., and John Does 1-50,

Defendants.

**Case No. 09 Civ. 0668  
(ADS) (ETB)**

**NOTICE OF JOINDER IN  
MOTION TO SUBSTITUTE**

---

HUMPREY PEAK TOWER, LLC, f/k/a D&B TOWERS, LLC

Counterclaimant

- against -

C. ROBERT ALLEN, III, by LUKE ALLEN, as Guardian for  
the Property Management of C. Robert Allen, III,

Counterdefendant.

---

**PLEASE TAKE NOTICE** that Defendant and Third Party Plaintiff D&B Towers, LLC (“D&B Towers”) hereby joins in the Motion to Substitute (Document 227) filed by Defendant/Third Party Plaintiff Christopher Devine and the Memorandum of Law, with attached exhibits.

For the reasons and law set forth in those pleadings and pursuant to Rule 25 of the FEDERAL RULES OF CIVIL PROCEDURE, D&B Towers moves the Court to substitute Grace Allen, in her capacity as executrix of C. Robert Allen III’s estate, for Roberts as a counter-defendant in the Counterclaim action filed by D&B Towers.

D&B TOWERS, LLC

By: /s/ Mark L. Callister  
Attorney for D&B Towers, LLC

Mark L. Callister  
CALLISTER NEBEKER & McCULLOUGH  
10 East South Temple, Suite 900  
Salt Lake City, Utah 84133  
Telephone: (801) 530-7425  
Facsimile: (801) 364-9127  
*mcallister@cnmlaw.com*

Nicholas Fortuna, Esq.  
ALLYN & FORTUNA, LLP  
200 Madison Avenue, 5<sup>th</sup> Floor  
New York, New York 10016  
Telephone: (212) 213-8844  
Facsimile: (212) 213-3318  
*nfortuna@allynfortuna.com*  
*Attorneys for D&B Towers, LLC*

Dated: June 15, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of **NOTICE OF JOINDER IN MOTION TO SUBSTITUTE** was served by electronic transmission via the U.S. District Court's CM/ECF system, on the 15th day of June 2011, on the following:

Lawrence T. Gesser, Esq.  
Alexandra Wald, Esq.  
Nathaniel P.T. Read, Esq.  
Alexis G. Stone, Esq.  
Harvey B. Silikovitz, Esq.  
**COHEN & GRESSER, LLP**  
800 Third Avenue, 21st Floor  
New York New York 10022

Kevin J. O'Conner, Esq.  
Daniel E. Budorick, Esq.  
David Scriven-Young, Esq.  
Thomas Jerome Curran, Esq.  
Edward Pacer, Esq.  
**PECKAR & ABRAMSON, P.C.**  
41 Madison Avenue  
New York, New York 10010

Alan R. Peterman, Esq.  
**HISCOCK & BARCLAY, LLP**  
One Park Place  
300 South State Street  
Syracuse, New York 13202-2078

Judd Burstein, Esq.  
**JUDD BURSTEIN, P.C.**  
1790 Broadway, Suite 1501  
New York, New York 10019

/s/ Mark L. Callister